

Housing and Property Chamber First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber)

Variation of Repairing Standard Enforcement Order: Housing (Scotland) Act
2006 Section 25

Chamber Ref: PRHP/RP/16/0292

Sasines Description: The Property known as ALL and WHOLE the dwelling house known as and forming 35 Restalrig Road, Leith, Edinburgh EH6 8BD, all as more particularly described in the Disposition by William Baldie in favour of Alexander Inglis dated 16th October 1928, and recorded in the Division of the General Register of Sasines for the County of Midlothian on 19 October 1928.

(“The House”)

The Parties:-

Miss Joanne Frizzel, formerly 35 Restalrig Road, Edinburgh EH6 8BD

(“the Former Tenant”)

G & L Properties, Mr Giovanni Battista Cortellessa and Gina Linda Cortellessa, 3A Jordan Lane, Edinburgh EH10 4RB; 79 Collington Road, Edinburgh EH10 5DF; 3 Jordan Lane, Edinburgh EH10 4RB

(“the Landlords”)

The First-tier tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’) having determined on 1st November 2017 that the **Repairing Standard Enforcement Order** relative to the house served on 20th December 2016 should be varied, the said **Repairing Standard Enforcement Order is hereby varied** with effect from the date of service of this Notice in that the following requirement of the RSEO be deleted:-

- 1) To repair or replace the gas hob within the kitchen of the Property to ensure that it is in a reasonable state of repair and in proper working order.

Subsection 25(3) of the Housing (Scotland) Act 2006 does not apply in this case.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek

permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

IN WITNESS WHEREOF: these presents type written on this and the preceding page are executed by Rory A. B. Cowan solicitor, 16 Royal Exchange Square, Glasgow G1 3AG, chairperson of the tribunal at Glasgow on 1st November 2017 before this witness:-

R Cowan

____witness

____chairperson

ANDREW PIRIE name in full

16 ROYAL EXCHANGE SQUARE Address

GLASGOW

G1 3AG

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

**Statement of Reasons for Variation of Repairing Standard Enforcement Order:
Housing (Scotland) Act 2006 Section 25**

Chamber Ref: PRHP/RP/16/0292

Sasines Description: The Property known as ALL and WHOLE the dwelling house known as and forming 35 Restalrig Road, Leith, Edinburgh EH6 8BD, all as more particularly described in the Disposition by William Baldie in favour of Alexander Inglis dated 16th October 1928, and recorded in the Division of the General Register of Sasines for the County of Midlothian on 19 October 1928.

("The House")

The Parties:-

Miss Joanne Frizzel, formerly 35 Restalrig Road, Edinburgh EH6 8BD

("the Former Tenant")

G & L Properties, Mr Giovanni Battista Cortellessa and Gina Linda Cortellessa, 3A Jordan Lane, Edinburgh EH10 4RB; 79 Collington Road, Edinburgh EH10 5DF; 3 Jordan Lane, Edinburgh EH10 4RB

("the Landlords")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') having considered the Landlords' application dated 4th August 2017 to vary the Repairing Standard Enforcement Order (RSEO) relative to the House served on 20th December 2016 determines that the RSEO should be varied to remove the following requirement under the RSEO:

- To repair or replace the gas hob within the kitchen of the Property to ensure that it is in a reasonable state of repair and in proper working order.

for the following reasons:

- Following reinspection on the 3rd of July 2017, it was noted by the Ordinary Member of the tribunal that the Landlords had done more work to the House than required by the RSEO including the fitting of a new kitchen. The original

gas hob had been removed and a space left for the installation of a new freestanding cooker.

- As the Former Tenant has vacated the House, any new tenancy could be granted without a cooker allowing any new tenants to install their own (no doubt the rent sought would reflect this). As such, no one is disadvantaged by varying the RSEO as requested.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

R Cowan

Signed..

Date..... 1st November 2017.....

Chairperson